

REMARKS

Generally

Claims 11-20 are pending in the present application. Claims 14 and 15 are allowed. Claims 11 and 16-20 are rejected under 35 U.S.C. §103.

While the OA asserts that the remarks filed on March 19, 2005 (March Reply) have been fully considered and that the amended claims are rejected in view of newly discovered references, such is apparently not the case. Only Claims 14 and 15 had been amended in the March Reply; and those have not been rejected.

Regarding Claims 11 and 16-20, several detailed arguments and specific demands (i.e., that references be produced to support improper Official Notice) are clearly pertinent to the current rejections, yet have not been addressed in the present OA. The undersigned renews each argument and each demand regarding improper Official Notice from the March Reply, and earnestly solicits the Office's reply. In addition, the undersigned renews the remarks directed to Claims 12 and 13 in the March Reply.

Regarding Claims 11 and 16 (the only claims to which the newly discovered reference is applied), the OA fails to state a *prima facie* case of unpatentability. Specifically, the OA mischaracterizes the newly discovered reference to find claim elements not disclosed in the reference.

Regarding Rejection of Claims 11 and 16-20 Under 35 U.S.C. §103 as Unpatentable over U.S. Pat. No. 4,866,634 to Reboh et al. in View of U.S. Pat. No. 6,477,471 to Hedstrom et al.

Regarding Claim 11, the OA asserts:

Reboh et al. ('634) discloses a system ... <asserting that Reboh discloses the first two clauses of Claim 11>

Reboh does not explicitly disclose one or more central processing units **calculating the likelihood that changes to the set of input data are the result of one or more errors.** Hedstrom ('471) discloses one or more central processing units calculating the likelihood that changes to the set of input data are the result of one or more errors; (Figure 5, Column 4, lines 20-38 [estimating defects etc.]) **<bold emphasis added>**

HEDSTROM does not calculate the likelihood that changes to input data are the result of error(s). HEDSTROM discloses a tool for use in software development. Data regarding the distribution of defects among various stages of completed software development projects are collected – i.e., “historical data.” See HEDSTROM C02 L21-23. HEDSTROM predicts the total number of errors expected to be found in **a new and different development project** as a function of number of opportunities for error in the new project (e.g., “software lines of code”) and a goal quality value (e.g., “six sigma”) for the new project. See HEDSTROM C02 L26-28. The predicted total number of errors is then distributed across the various stages of the new software project in accordance with the distribution of the “historical data” in the completed projects. See HEDSTROM C02 L28-30.

It is important to note that HEDSTROM does not calculate the likelihood that changes to the “historical data” are the result of errors. Since the references do not disclose all elements of the claim, a *prima facie* case of unpatentability has not been established with regard to Claim 11 and the claims dependent thereon.

Regarding Claim 16 (directly dependent on Claim 11), the OA asserts:

Reboh et al. ('634) discloses the system of claim 11,

Reboh et al. ('634) does not explicitly disclose calculating the information content of the input data; and performing a statistical analysis of the calculated information content relative to the one or more historical values to determine the likelihood that changes to the input data are the result of one or more errors. (Figure 1)

Figure 1 of HEDSTROM discloses a plot of defects per million opportunities (DPMO) versus Sigma. HEDSTROM describes FIG. 1 as follows:

The number of defects per million opportunities (DPMO) may be converted into a Sigma level via use of a conversion chart as shown in FIG. 1.

Under no interpretation does such a plot disclose calculating information content. Since the references do not disclose all elements of the claim, a *prima facie* case of unpatentability has not been established with regard to Claim 16 and the claims dependent thereon.

Regarding Examiner's Note

While the undersigned fully considers each reference in its entirety when responding, the burden of establishing a *prima facie* of unpatentability lies with the USPTO. If the cited sections of the references do not establish a *prima facie* case of unpatentability, then it is unacceptable burden shifting to require the applicant to search for unpatentability.

CONCLUSION

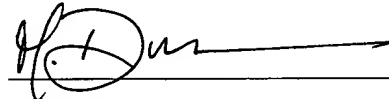
With consideration of the above amendments and remarks directed to the rejections, the undersigned submits that this application is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that the prosecution might be advanced by discussing the application with the undersigned, in person or over the telephone, we would welcome the opportunity to do so.

Respectfully submitted,

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By:

A handwritten signature in black ink, appearing to read "M. J. Dimino", written over a horizontal line.

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